

UNITED STATES BANKRUPTCY COURT  
SOUTHERN DISTRICT OF OHIO  
EASTERN DIVISION

IN RE:

MARY ANN CROOKS : CASE NO. 2:08-bk-56848  
CHAPTER 7  
Debtor : JUDGE C. KATHRYN PRESTON

MOTION FOR RELIEF FROM AUTOMATIC STAY

The Milton Banking Company, a secured party herein, respectfully moves this Court pursuant to 11 U.S. Code Section 362(D) and Bankruptcy Rules 4001, 9014 and L.B.R. 6 for relief from automatic stay with respect to its collateral being more particularly described in the attached memorandum.

/s/Lawrence A. Heiser  
LAWRENCE A. HEISER  
Ohio Sup. Ct. Reg. No. 0000631  
Oths, Heiser & Miller  
Sixteen East Broadway  
P.O. Box 309  
Wellston, Ohio 45692-0309  
(740) 384-2111  
Attorney for Secured Creditor,  
The Milton Banking Company

MEMORANDUM

On February 5, 2007, the Debtor, Mary A. Crooks, executed and delivered to The Milton Banking Company, at 123 South Ohio Avenue, Wellston, Ohio 45692, her certain note in the principal sum of Seventy Thousand Nine Hundred Thirty-one Dollars and Forty-six Cents (\$70,931.46) with interest accruing thereon at the rate of 6.60% per annum, a copy of said note attached hereto as Exhibit "A".

Said note required the Debtor to make thirty-six (36) monthly installments. The first thirty-five (35) installments being not less than of Five Hundred Thirty-eight Dollars and Seventy-nine Cents (\$538.79) each, the first of which installments to be due and payable on or before the 9th day of March, 2007 and succeeding installments on or before the 9th day of each and every month thereafter. The thirty-sixth (36<sup>th</sup>) installment shall be a BALLOON PAYMENT, being a payment of Sixty-five Thousand Five Hundred Seventy-eight Dollars and Thirty Cents (\$65,578.30), being the balance of principal and any accumulated interest and is due and payable on the 9<sup>th</sup> day of February, 2010.

Said Debtor is in default on said note and there is currently due and owing thereon the sum of Sixty-nine Thousand Three Hundred Ninety-nine Dollars (\$69,399.00), representing the balance of the principal plus accumulated interest through July 28, 2008 plus interest continues to accrue at the rate of 6.60% per annum from July 29, 2008 until paid in full plus reasonable attorney fees per the terms of the note.

As security for payment of said note, the Debtor, Mary A. Crooks, unmarried, executed and delivered to The Milton Banking Company, her certain Open-End Mortgage dated June 5, 2001 and filed for record on the 6th day of June, 2001 in Mortgage Book 330, Page 673-675 of the Mortgage Records of Jackson County, Ohio, thereby perfecting its lien against said real estate, a copy of which is attached hereto as Exhibit "B", covering the following described real estate:

Situated in the City of Jackson, County of Jackson and State of Ohio and bounded and described as follows:

Being Lot No. 2 of the Grandview Heights Addition to the City of Jackson, Ohio as shown upon the recorded plat of said Addition as recorded in Plat Book 4, Page 148 in the office of the recorder of Jackson County, Ohio, except the coal underlying said premises and subject to the easement of the Globe Iron Company to use the coal mine underlying said premises for storage of water granted by the Buckeye Mill and Lumber Company by a certain grant of easement recorded in Deed Record Vol. 141,

Page 134, in the Office of the Recorder of Jackson County, Ohio.

Subject to easements, leases, rights-of-way, conditions and restrictions of record.

As further security for payment of said note, the Debtor, Mary A. Crooks, unmarried, executed and delivered to The Milton Banking Company, her certain Consumer Security Agreement dated February 5, 2007, a copy of which is attached hereto as Exhibit "C", covering the following:

Real estate known as 3 Grandview Ave., Jackson, OH as evidenced by a real estate mortgage dated 6-5-2001 and recorded in Book 320, Pages 673, 674, & 675 Jackson Co. Recorder.

The Creditor, Jackson County Treasurer, may have or claim an interest in the real estate by virtue of real estate taxes due and owing on said real estate.

There is no equity in said property and it is not necessary to an effective reorganization. Additionally, neither debtor nor the Trustee on behalf of said debtor have made any payments on said notes and by virtue of a lack of said payments, have denied this moving party adequate protection, thus entitling The Milton Banking Company to relief from stay pursuant to 11 U.S. Code Section 362(D)(1) and 362(D)(2).

This Motion does not seek to interfere with the rights of Chapter 7 Trustees.

WHEREFORE, this moving creditor respectfully requests an Order from this Court vacating the automatic stay and allowing the secured creditor herein to proceed with any state sale proceedings in order to sell said property and apply the proceeds to its indebtedness and any and all other relief to which it may be entitled.

/s/Lawrence A. Heiser  
LAWRENCE A. HEISER  
Ohio Sup. Ct. Reg. No. #0000631  
Attorney for Secured Creditor,  
The Milton Banking Company

H/s

UNITED STATES BANKRUPTCY COURT  
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CERTIFICATE OF SERVICE AND  
NOTICE OF REQUEST FOR RELIEF FROM STAY

The undersigned certifies that a copy of the foregoing Motion for Relief from Automatic Stay and Abandonment of Property was served this date on the parties whose names and addresses are listed below as and for NOTICE that the attached request for relief would be filed. The undersigned will present to this Court a proposed order granting the relief sought unless, within twenty (20) days after this date, a written memorandum in opposition along with a request for a hearing is filed with the Court and served on the undersigned. Furthermore, notice is given that, if the attached request seeks relief from the stay of acts against property of the estate, such stay will terminate with respect to the requesting party unless, within twenty (20) days of the filing of the attached request, the Court orders the stay continued in effect pending, or as a result of, a final hearing pursuant to 11 U.S.C. Section 362(e).

Dated August 20, 2008.

/s/Lawrence A. Heiser.  
LAWRENCE A. HEISER  
Ohio Sup. Ct. Reg. No. 0000631  
Oths, Heiser & Miller  
Sixteen East Broadway  
Wellston, Ohio 45692-0309  
(740) 384-2111  
Attorney for Secured Creditor,  
The Milton Banking Company

Names and addresses  
of parties served:

**Served Electronically**

William B. Logan, Trustee  
50 West Broad Street  
Suite 1200  
Columbus, Ohio 43215

U. S. Trustee  
170 North High Street  
Second Floor – Suite 200  
Columbus, Ohio 43215

Don E. Fuller, Esquire  
19 West Second Street  
Chillicothe, Ohio 45601

**Served by Regular U.S. Mail**

Mary Ann Crooks  
3 Grandview Avenue  
Jackson, Ohio 45640

B. Lee Hubbard, Treasurer  
c/o Jonathan Blanton  
Prosecuting Attorney  
295 Broadway, Suite 100  
Jackson, Ohio 45640

H/s